

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

MIDWEST MOTOR SPORTS, INC., * CIV. #99-4117

Plaintiff, *

vs. *

ARCTIC CAT SALES, INC., *

Defendant. *

* PLAINTIFF'S ANSWERS TO
DEFENDANT'S INTERROGATORIES
(FIRST SET)

COMES NOW Don Elliott, President of Midwest Motor Sports, Inc., being first duly sworn upon his oath, and makes the following Answers to Defendant's Interrogatories (First Set):

1. State the name, address, telephone number and occupation of each person who has knowledge of any facts or information relating to the matters at issue and for each person identified state in detail the facts known by the individual.

ANSWER: Objection. This interrogatory is objected to to the extent that it seeks information which is protected by the work product doctrine. Without waiving that objection, individuals with knowledge may include:

ELLIOTT POWER SPORTS:

(The Defendant is admonished not to attempt to contact representatives of the Plaintiff.)

Don R. Elliott
Elliott Power Sports
5000 S. Louise Ave
Sioux Falls, SD 57108
(605) 361-7433
Owner/President/Sales Director

EXHIBIT

tabbed

A

ATTORNEYS AT LAW

Johnson, Heidepriem, Miner,
Marlow & Janklow, L.L.P.

Falls Center

431 North Phillips Avenue, Suite 400

Sioux Falls, South Dakota 57104-5933

Telephone (605)338-4304 • FAX (605)338-4162

Mark F. Marshall, P.C.
Of Counsel

P.O. Box 667

200 West Third Street

Yankton, SD 57078-0667

Telephone (605)663-5009

FAX (605)663-4788

Reply To: Sioux Falls

August 19, 1999

Steven M. Johnson
Scott N. Heidepriem
Celia Miner
Michael F. Marlow
A. Russell Janklow
Chad W. Swenson
Sheila S. Woodward
Ronald A. Parsons, Jr.

Tim R. Shattuck
Woods, Fuller, Shultz & Smith, P.C.
PO Box 5027
Sioux Falls, SD 57117-5027

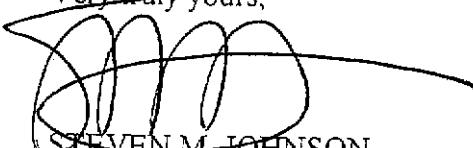
By Facsimile: 339-3357

Re: Midwest Motor Sports, Inc. v. Arctic Cat Sales, Inc.

Dear Tim:

I am attaching another letter your client sent to mine. Our clients have lawyers. I assume you informed your client not to communicate with mine during this litigation. This letter appears to be one written either by his lawyers, or someone on his behalf, in order to mitigate damages and argue his position. You and your client both know that Elliott Sports was terminated and no amount of letter writing is going to change that. Your client informed mine on more than one occasion that this area would not support more than one franchise dealer and yet it set up a dealer in direct violation of the South Dakota statute. Why would they do that? Obviously, they had decided to terminate Elliott. Would you please have your client stop writing letters and playing this silly game. A jury will see through this in a minute.

Very truly yours,



STEVEN M. JOHNSON

For the firm

SMJ:dkm

cc: Mr. Don Elliott by facsimile
Mr. Ronald A. Parsons, Jr.

EXHIBIT

B



October 11, 1999

Mr. Don Elliott
Elliott Power Sports
5000 South Louise Avenue
Sioux Falls, SD 57108

Dear Don:

As you know, Elliott Power Sports signed a Dealer Agreement with Arctic Cat on March 4, 1999. You mailed this Agreement to Arctic Cat, and Arctic Cat signed it on May 12, 1999, before you sued Arctic Cat for allegedly terminating your dealer relationship with it. The Dealer Agreement signed by both you and Arctic Cat is effective from April 1, 1999, to March 31, 2000. As you are aware, pursuant to the terms of the Dealer Agreement, the Agreement can only be terminated in writing. As you have admitted under oath, neither Arctic Cat nor Elliott Power Sports has terminated the Agreement in writing. In short, Elliott Power Sports has always had and continues to have a valid Dealer Agreement with Arctic Cat.

Under the Dealer Agreement, Elliott Power Sports is entitled to all of the rights possessed by any other dealer. Again, we invite Elliott Power Sports to order year 2000 snowmobiles, parts, and accessories. As we have previously informed you on numerous occasions, Arctic Cat will do everything possible to promptly and timely fulfill any orders from Elliott Power Sports.

Very truly yours,

Mark Simunds
Western Regional Sales Manager

EXHIBIT

tabloids

C



Reload for Snow Merchandising Checklist

Yes	No
Is exterior neat and clean?	
<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is there an Arctic Cat presence with signage both exterior and interior?	
<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are the hours of operation posted on front door?	
<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is the sales floor clean and free of clutter?	
<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is there a fair representation of Arctic Cat snowmobiles on display?	
<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is there a fair representation of Arctic Cat ATV's on display?	
<input checked="" type="checkbox"/>	<input type="checkbox"/>
If dealer is a generator Master Dealer is the generator rack on the sales floor and stocked?	
<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are all Arctic Cat snowmobiles, ATV's, and generators clearly priced?	
<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are the following PG&A key categories easily recognized, signed, priced, and merchandised correctly?	
Arcticwear <ul style="list-style-type: none"> - Riding gear. - Sportswear. - Gifts & collectibles. 	
Parts & Accessories <ul style="list-style-type: none"> - Machine accessories. - Traction control. - oil care. 	
Is all possible Arctic Cat PG&A product displayed on the sales floor? (Only duplicate stock in backroom).	
<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is there an accessorized snowmobile and ATV on the sales floor?	
<input checked="" type="checkbox"/>	<input type="checkbox"/>
Do you have the 2000 Arcticwear and Accessories CATALOGS available to your customers?	
<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are you utilizing all the merchandising program items that were sent? (Fixtures, signage, etc.).	
<input checked="" type="checkbox"/>	<input type="checkbox"/>
Does the sales floor reflect a Holiday theme?	
<input checked="" type="checkbox"/>	<input type="checkbox"/>

Identify the top three merchandising actions to be completed.

1. _____
2. ~~Asper to LEAVE / 1:50 PM By
JOTL per Dan ELLIOT on phone.~~
3. _____

Dlr # 578827 Dlr Name ELIOT Fawcett Signature

DSM Dan Hucky

EXHIBIT

11

Date 11-23-99

12 DEPOSITION OF

13 ADRIAN MOHR

15 APPEARANCES:

16 Johnson, Heidepriem, Miner, Marlow & Janklow
17 Attorneys at Law
18 431 North Phillips Avenue
19 Sioux Falls, South Dakota 57104
20 By Mr. Steven Johnson
21 for the Plaintiff;
22
23 Woods, Fuller, Shultz & Smith
24 Attorneys at Law
25 300 South Phillips Avenue
26 Sioux Falls, South Dakota 57104
27 By Mr. Roger Damgaard and Mr. Timothy Shattuck
28 for the Defendant;

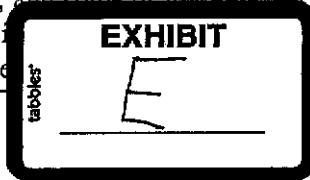
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1 A. Sioux Falls, South Dakota.
2 Q. Your occupation is what?
3 A. I am a private investigator.
4 Q. Prior to that what was your occupation?
5 A. Special agent with the Federal Bureau of
6 Investigation.
7 Q. How long were you involved in that position?
8 A. From 1969 to 1999, nearly thirty years.
9 Q. You retired, did you?
10 A. Yes.
11 Q. So your private detective business started in
12 1999?
13 A. Yes.
14 Q. About what time?
15 A. I retired April 2nd, and I started right
16 after that.
17 Q. Your educational background, could you tell
18 me about that?
19 A. I have a BS from the University of Northern
20 Colorado, attended the University of Colorado, and no
21 postgraduate other than work related.
22 Q. Work related?
23 A. Work related in-services, and some of those
24 hours counted with the Universi
25 Q. I assume you have testified
EXHIBIT



	Page 5	Page 7
1	A. Yes.	1 State Bank, Bartron Clinic embezzlement, I have done a
2	Q. By deposition and in court, or am I wrong	2 couple of other checks on individuals for the firm.
3	about that?	3 Q. So you have done three or four projects
4	A. Grand jury, depositions, this is probably my	4 besides the Arctic Cat case?
5	first deposition.	5 A. Yes.
6	Q. They don't take a lot of those in the	6 Q. Would those all be for the same lawyers at
7	criminal area, do they?	7 Woods, Fuller that you are working for in the Arctic Cat
8	A. No.	8 case?
9	Q. But is it fair to say you have testified many	9 A. No.
10	times in court?	10 Q. You live here in Sioux Falls?
11	A. Yes.	11 A. Yes.
12	Q. In your service with the FBI did you ever	12 Q. Do you have a cabin at Lake Madison?
13	take any legal training, in-service?	13 A. In-law's cabin. We are a third owner now
14	A. Yes.	14 with my wife's siblings.
15	Q. Education, that type of thing?	15 Q. Of a cabin at Lake Madison?
16	A. Yes.	16 A. Yes.
17	Q. Would that cover -- well, tell me what that	17 Q. Can you tell me how it came to be that you
18	would cover?	18 got involved in the Elliott Sports versus Arctic Cat
19	A. It would cover areas of search and seizure,	19 case?
20	some criminal procedure, court, court procedures, and	20 A. Yes. Roger and Tim requested that I go out
21	asset forfeiture, those various kinds of things that	21 and do some shopping in regards to the snowmobile
22	would come up in criminal court.	22 business.
23	Q. Would it cover things like attorney/client	23 Q. Did that start with a phone call to you?
24	privilege, that type of thing?	24 A. I think I was here actually on another
25	A. Yes, sir.	25 matter, probably the Bartron Clinic, which broke heavily
	Page 6	Page 8
1	Q. Then your business here in Sioux Falls, what	1 in October of 1999, and I think I was here on that
2	is that called?	2 matter.
3	A. Adrian Mohr Investigations and Consulting.	3 Q. You have produced your file pursuant to a
4	Q. What is the nature of that business?	4 subpoena that I served upon you?
5	A. I am open to investigations, both civil type	5 A. Yes.
6	of investigations, and possibly some defense work. I	6 Q. I am going to mark some of the things in your
7	will not work on divorces.	7 file, we can make copies if you want to keep copies of
8	Q. You won't spy on cheating spouses?	8 them.
9	A. No, and I haven't had an offer, or I have had	9
10	an offer for workmen's comp cases and I don't want to	10 (Mohr Deposition Exhibits 1-8 marked For
11	work those either.	11 identification.)
12	Q. What is the nature of the work you have done	12
13	since April of 1999?	13 Q. Mr. Mohr, we have marked some things from
14	A. Basically I have had some fraud investigation	14 your file. You have got some bills and expense
15	working with Community First State Bank in Vermillion.	15 documents in your file, would that reflect all of the
16	Bartron Clinic, a large embezzlement up there, and some	16 bills that you sent to this law firm and/or Arctic Cat
17	various other cases. I have done a couple of defense	17 with regard to your assignment in this case?
18	work cases, one at Standing Rock that did not involve	18 A. Yes.
19	the FBI, and one at Milbank for the Ray Rylance, a	19 Q. Exhibit No. 1, it looks like it is a bill of,
20	defense attorney on a rape of a four year old girl.	20 for the month of November, 1999, would that be correct?
21	Q. Have you done any work for the law firm of	21 A. Yes.
22	Woods, Fuller, Shultz & Smith?	22 Q. Would that reflect everything that you did
23	A. Yes.	23 concerning your assignment during the month of November?
24	Q. What work have you done for them?	24 A. Yes.
25	A. Besides this I have done the Community First	25 Q. What does that indicate in terms of when you

<p>1 first met with Mr. Damgaard and Mr. Shattuck?</p> <p>2 A. November 5, 1999, 10:00 a.m.</p> <p>3 Q. Where did that meeting take place?</p> <p>4 A. In Mr. Shattuck's office.</p> <p>5 Q. Can you tell me, maybe there is other</p> <p>6 documents that would help refresh your memory, what the</p> <p>7 nature of that discussion was? I am looking at what we</p> <p>8 have marked as Exhibit 3, which is four pages of what I</p> <p>9 understand to be your notes, one of them happens to be</p> <p>10 dated November 5, would it help you to look at that?</p> <p>11 A. If you are going to ask me direct questions</p> <p>12 off of it I will.</p> <p>13 Q. I want to know generally what was the nature</p> <p>14 of the meeting on November 5, and you can use Exhibit 3</p> <p>15 or Exhibit 1?</p> <p>16 A. This was the meeting notes that I took while</p> <p>17 discussing what the attorneys wanted me to do, and</p> <p>18 getting a background of snowmobiles as much as they</p> <p>19 knew, because I knew nothing about them other than I had</p> <p>20 ridden one a couple of times. This was a general</p> <p>21 background of things they wanted me to look at.</p> <p>22 Q. Did you understand your assignment to include</p> <p>23 ultimately recordings such as we have sitting in front</p> <p>24 of us?</p> <p>25 A. Yes, sir.</p>	<p>Page 9</p> <p>1 A. Something to the effect that you might have</p> <p>2 represented both dealers, snowmobile dealers on this</p> <p>3 matter, both A-Tech and Don Elliott Sports.</p> <p>4 Q. What did that have to do with your</p> <p>5 assignment, you being told that information?</p> <p>6 A. Nothing.</p> <p>7 Q. Do you know why they shared their thoughts on</p> <p>8 that subject with you?</p> <p>9 A. No. Had there been further discussion I</p> <p>10 probably would have had more notes. I mean they were</p> <p>11 talking between themselves as well as to me.</p> <p>12 Q. Was the insinuation that Steve Johnson and/or</p> <p>13 other members of his law firm were somehow violating</p> <p>14 ethical rules, those that lawyers are bound to follow?</p> <p>15 A. That conversation didn't take place, it was a</p> <p>16 matter of some sort of conflict, and I am not sure.</p> <p>17 Q. Did you understand that it was a conflict</p> <p>18 that somehow broke rules as your notes indicate?</p> <p>19 A. Possibly, yes.</p> <p>20 Q. Did you think better or worse of us after you</p> <p>21 heard that?</p> <p>22 A. I didn't think worse of you, no.</p> <p>23 Q. My recollection is I think you came in our</p> <p>24 office and dropped some cards off, I have them sitting</p> <p>25 here.</p>
<p>Page 10</p> <p>1 Q. Can I just go through this with you. On</p> <p>2 Exhibit 3, which is your notes, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Dated 11-5, I see my name there and it says</p> <p>5 versus, what does that jog your memory concerning me?</p> <p>6 A. Versus Woods, Fuller.</p> <p>7 Q. What does this say here?</p> <p>8 A. Breaking rules.</p> <p>9 Q. What is that?</p> <p>10 A. That's something that they discussed, said</p> <p>11 that you were breaking the rules.</p> <p>12 Q. What rules was I breaking?</p> <p>13 A. I don't know for sure.</p> <p>14 Q. You have no recollection of that?</p> <p>15 A. There was some sort of conflict between</p> <p>16 attorneys, there were four or five attorneys mentioned,</p> <p>17 and some of them are named here.</p> <p>18 Q. Where?</p> <p>19 A. Dan Lias, L-I-A-S.</p> <p>20 Q. On page 2?</p> <p>21 A. Yes, and I think there was Chad Swenson, a</p> <p>22 partner of Johnson's.</p> <p>23 Q. Can you give me your best recollection about</p> <p>24 what it is that you were told concerning any breaking of</p> <p>25 rules by Johnson and Swenson or anybody else?</p>	<p>Page 12</p> <p>1 A. I did not come to the office.</p> <p>2 Q. Did these come in the mail?</p> <p>3 A. Yes, they did, with a letter to Scott</p> <p>4 Heidepriem.</p> <p>5 Q. You know Scott?</p> <p>6 A. Yes, I do.</p> <p>7 Q. So you sent him some of your cards?</p> <p>8 A. Yes, sir, along with a letter that you have,</p> <p>9 that's the only advertisement that I have ever done.</p> <p>10 Q. In any event, other than members of my law</p> <p>11 firm breaking various rules, was there any other</p> <p>12 discussion about the lawyers involved in the</p> <p>13 Elliott-Arctic-Cat matter?</p> <p>14 A. No. As far as the work they were doing, I</p> <p>15 think as the notes reflect there was a lawsuit,</p> <p>16 Department of Revenue hearing, it didn't mean anything</p> <p>17 to me about whatever they do in the Department of</p> <p>18 Revenue hearings. I don't know anything about that, or</p> <p>19 what that is about.</p> <p>20 Q. On page 2, the top, it says only a witness</p> <p>21 slash win-win and then quotes around Jon Becker, tell us</p> <p>22 about that, what did they tell you concerning Jon</p> <p>23 Becker?</p> <p>24 A. That he was the owner of A-Tech, and age 40.</p> <p>25 I had a concern that maybe I knew him because there is a</p>

<p style="text-align: right;">Page 13</p> <p>1 Jon Becker that was a hockey player here that my son 2 played against and his father was a coach, Joe Becker. 3 Only a witness, that would have been in regards to Don 4 Elliott.</p> <p>5 Q. What does it say under oath with Steve 6 Johnson, what is that about?</p> <p>7 A. Must have been that you took a deposition 8 from him, I don't recall.</p> <p>9 Q. Subpoena documents dash Steve Johnson shows 10 up, what is that supposed to tell us?</p> <p>11 A. That Woods, Fuller subpoenaed some documents, 12 I think sales records if I can recall, and that you 13 showed up for A-Tech.</p> <p>14 Q. What's the relevance of that concerning your 15 involvement?</p> <p>16 A. Only that -- concerning my involvement, 17 nothing.</p> <p>18 Q. Was there some innuendo that there was 19 something wrong about that?</p> <p>20 A. Evidently Don Lias was supposed to show up 21 with the records, or was representing A-Tech, and you 22 showed up when the subpoena was issued.</p> <p>23 Q. And there was some insinuation there was 24 something wrong about that, is that what you are 25 suggesting that they said?</p>	<p>1 were able to wire yourself and record these 2 conversations?</p> <p>3 A. I told them I was able to do that, yes.</p> <p>4 Q. Why was that necessary, to record the 5 conversations of people at Elliott Power Sports?</p> <p>6 A. To memorialize the conversations that I had 7 with the sales people, and so there were no mistakes.</p> <p>8 Q. Did you, I assume you did based on our prior 9 conversations today, that you knew that Elliott Power 10 Sports was represented by counsel?</p> <p>11 A. Yes.</p> <p>12 Q. You knew there was a pending lawsuit, did you 13 not?</p> <p>14 A. Yes.</p> <p>15 Q. Tell me what else is set forth on page 2 of 16 your notes?</p> <p>17 A. They wanted me to go out to the dealership 18 and find out which snowmobiles they were recommending 19 and why, look at the equipment that was there.</p> <p>20 Q. Did they tell you why you should do that?</p> <p>21 A. I think that they wanted to determine what 22 was selling best, whether they were hurt because Arctic 23 Cat wasn't being sold there any longer.</p> <p>24 Q. And you were supposed to determine that on a 25 site visit?</p>
<p style="text-align: right;">Page 14</p> <p>1 A. Well, that they said, could be a conflict 2 because you are representing Don Elliott Sports also.</p> <p>3 Q. Then it says 3 slash 31 slash 99 terminated. 4 Terminated, what is that supposed to tell us?</p> <p>5 A. Evidently there was a deposition scheduled, I 6 don't know who was there, and it was canceled.</p> <p>7 Q. What does that have to do with anything?</p> <p>8 A. I was just taking notes. There were a lot of 9 things being discussed, and I probably missed some 10 notes.</p> <p>11 Q. Missed some of it I suppose. Then can you 12 run through the rest of this for me, just generally go 13 through it and tell me what it is you recall them 14 telling you?</p> <p>15 A. They requested that I visit the show room at 16 Don Elliott's, and to see what was there.</p> <p>17 Q. Just a visual?</p> <p>18 A. Yes.</p> <p>19 Q. Or were you going to talk to people?</p> <p>20 A. Both. I was going to talk to a salesman and 21 see what the salesman represented in the way of the 22 product that they were promoting, what kind of equipment 23 they had, that sort of stuff.</p> <p>24 Q. I assume that you had some discussion with 25 Mr. Damgaard and Mr. Shattuck about the way that you</p>	<p>1 A. If I could.</p> <p>2 Q. I have listened to your tapes. Did 3 Mr. Damgaard and Mr. Shattuck tell you what to ask?</p> <p>4 A. They did not give me a script, they indicated 5 from my notes various things here, thought you sold 6 Arctic Cat, and which are the best snowmobiles.</p> <p>7 Q. These things that have like quotes around 8 them?</p> <p>9 A. Yes.</p> <p>10 Q. In other words, these are things that they 11 wanted you to say to the sales people to see what the 12 sales people would say back to you and you would record 13 that?</p> <p>14 A. Yes, sir, and as you heard the tapes, you 15 heard a lot of information provided to me about 16 individual snowmobiles and the product that they were 17 selling.</p> <p>18 Q. Were you treated courteously by the sales 19 people at Elliott Sports?</p> <p>20 A. Very courteous, a young man named Bill, very 21 nice young man.</p> <p>22 Q. It may be obvious, but would it be a fair 23 statement that when you went in to Arctic Cat -- strike 24 that.</p> <p>25 Would it be a fair statement that when</p>

<p style="text-align: right;">Page 17</p> <p>1 you went in to Elliott Power Sports that you did not 2 tell anyone there what your true mission was? 3 A. That's correct. 4 Q. Would it also be a fair statement that you 5 did not tell anyone there that you were wired to record 6 the conversation? 7 A. That's correct. 8 Q. Would it be also a fair statement that you 9 did not tell anyone there that you were there at the 10 request of Mr. Shattuck and Mr. Damgaard? 11 A. Correct. 12 Q. Who was going to pay you for your efforts, 13 was it the Woods, Fuller law firm, or was it Arctic Cat? 14 A. I believe when I did this -- well, I billed 15 Woods, Fuller, and they in turn billed Arctic Cat for 16 payment. 17 Q. I notice on Exhibit No. 1 there is a check 18 stub that looks like Arctic Cat paid your bill? 19 A. Yes, sir. 20 Q. And -- 21 A. There should be a cover letter for this one 22 too, a copy of my -- here it is. 23 Q. So you sent your bill to Mr. Damgaard and 24 Mr. Shattuck, your understanding is they sent that to 25 Arctic Cat, and you got a check from Arctic Cat?</p>	<p style="text-align: right;">Page 19</p> <p>1 A. That was to have the sales person relate to 2 me, you know, the situation on all the snowmobiles, and 3 why he doesn't have Arctic Cat any more and that type of 4 stuff, if I could get that out of him. 5 Q. Then the name Jim LeTendre is written in 6 there, were you supposed to try to talk to him? 7 A. No. They indicated that he was the sales 8 manager, I may or may not see him when I was there. 9 Q. Then you were supposed to ask him if you 10 bought Arctic Cat could you get it serviced elsewhere? 11 A. Yes, or there. 12 Q. Or there? 13 A. Yes. 14 Q. Farther down there is a box around Interlakes 15 with the name of Steve B., what is that last name? 16 A. Cook. 17 Q. What is that about? 18 A. That is K-O-C-H as I learned later. They 19 indicated I should go to, since I didn't know anything 20 about the snowmobile business, go to Interlakes and see 21 Steve Koch and get some background on snowmobiles, which 22 I did. 23 Q. Did you record that conversation? 24 A. No, I did not. 25 Q. Did Mr. Koch know what your mission was?</p>
<p style="text-align: right;">Page 18</p> <p>1 A. Yes, sir. 2 Q. And then I notice at the bottom of page 2 of 3 Exhibit 3 you have asterisks around bad-mouth A-Tech, 4 were you trying to see whether Elliott would bad-mouth 5 A-Tech? 6 A. Yes. 7 Q. They didn't, did they? 8 A. No. 9 Q. Page 3 of Exhibit 3, are we still on your 10 first visit with Mr. Damgaard and Mr. Shattuck here at 11 the Woods, Fuller law firm? 12 A. Yes. 13 Q. I notice that there is the words financing, 14 and then you wrote get into it, that's something you 15 were supposed to get into? 16 A. See what type of promotions were offered, 17 what type of interest rates. 18 Q. Something about close-outs, what is that 19 about? 20 A. I believe that see if they had any close-out 21 prices, because the snowmobile season was, November it 22 should have been nearly over, or the sales. See if they 23 had close-out prices of the '99's. 24 Q. Then down here it says what Elliott salesman 25 telling customer. What is that about?</p>	<p style="text-align: right;">Page 20</p> <p>1 A. No, other than to a potential customer for 2 the purchase of snowmobiles. 3 Q. So you went up to Interlakes Sports, which is 4 an Arctic Cat franchise in Madison? 5 A. I believe he has all four snowmobiles, yes. 6 Q. But he's also an Arctic Cat franchisee? 7 A. Yes, sir. 8 Q. And got information out of him to help you 9 ask questions when you came back to Sioux Falls and 10 recorded these meetings at Elliott Power Sports and 11 A-Tech, correct? 12 A. Yes, sir. 13 Q. Page 4, is that a part of your meeting with 14 Damgaard and Shattuck? 15 A. No, page 4 is notes that I took while I was 16 talking to the salesman Bill at Elliott Sports. 17 Q. I assume these notes would reflect things 18 that were said to you that we would find on tape if we 19 listened to it? 20 A. Yes. Basically the quotes, the pricing, some 21 of the promotional information in regards to percent for 22 financing, and what kind of clothing might go along with 23 it, and some other things that Bill, questions I write 24 down like DPM, which are some features on the various 25 snowmobiles that were extra or made them a little</p>

<p>1 better.</p> <p>2 Q. Were these notes made by you when you were in 3 the show room?</p> <p>4 A. Yes.</p> <p>5 Q. Or was this made later?</p> <p>6 A. I am sorry, yes, in the show room.</p> <p>7 Q. You actually carried a notebook in with you?</p> <p>8 A. Yes.</p> <p>9 Q. Is it a fair statement that page 4 of Exhibit 10 3 are the only notes that you took while you were there?</p> <p>11 A. I don't believe so, I might have had some 12 quotes that I copied and stapled into the front of these 13 brochures. For instance, the Ski Doo they gave me a 14 suggested retail price list, and I wrote Cortrust there, 15 that's who financed it.</p> <p>16 Q. I am going to go through these later?</p> <p>17 A. I just wanted to show you where the quotes 18 were. Here is what they gave me at Interlakes.</p> <p>19 Q. So let's see, according to Exhibit 1 you met 20 with Arctic Cat's lawyers here on November 5. On 21 November 8 it looks like you went to Dakota Plains 22 Polaris dealership in Tea?</p> <p>23 A. Yes.</p> <p>24 Q. Was that just to find out more about 25 snowmobiles?</p>	Page 21	Page 23
<p>1 A. That was my initial dealership visit.</p> <p>2 Q. You didn't record anything there, did you?</p> <p>3 A. No, sir.</p> <p>4 Q. On November 9th you went to Interlakes, and 5 you have told us about that visit?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Did you ask them anything about Elliott Power 8 Sports when you were up there?</p> <p>9 A. I don't believe so.</p> <p>10 Q. Then November 11, according to Exhibit 1, you 11 wrote in your bill investigation at A-Tech Cycle 12 Service, one hour?</p> <p>13 A. Yes, sir.</p> <p>14 Q. I show you what's been marked as Exhibit 6 15 which is an audio tape provided to us. Would that be 16 the audio tape for your visit to A-Tech on November 11?</p> <p>17 A. Yes, sir.</p> <p>18 Q. I see you have got, the one you put in your 19 hidden jacket, or whatever it is, is smaller, but that 20 was re-duplicated as Exhibit 6?</p> <p>21 A. I didn't re-duplicate that, I assume Woods, 22 Fuller probably did, yes, sir.</p> <p>23 Q. Can you explain to me, because I am not, 24 never got in to criminal law much, so wires and things 25 like that are not something I am that familiar with.</p>	Page 22	Page 24

<p>1 particular day.</p> <p>2 Q. Was he promoting Arctic Cat products?</p> <p>3 A. Oh, yes.</p> <p>4 Q. They don't have any others to promote in</p> <p>5 terms of snowmobiles, do they?</p> <p>6 A. No. Maybe used ones, I wasn't interested in</p> <p>7 used.</p> <p>8 Q. Did Mr. Becker say anything negative about</p> <p>9 Elliott Power Sports or any other competitor of his?</p> <p>10 A. No.</p> <p>11 Q. What about the lawsuit, did he say anything</p> <p>12 about the lawsuit?</p> <p>13 A. I don't believe so.</p> <p>14 Q. Then according to Exhibit 1 which is your</p> <p>15 bill on November 12, 1999 it says investigate the</p> <p>16 Elliott Sports Center Technical follow-up, what does</p> <p>17 that mean?</p> <p>18 A. Review of the tape.</p> <p>19 Q. So you went out there, recorded?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Your conversation, then you went back and</p> <p>22 listened to it, right?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Why did you do that for Elliott and you</p> <p>25 didn't do it for the A-Tech tape, according to your bill</p>	Page 25	<p>1 A. Yes, sir.</p> <p>2 Q. By the way, my understanding is your wife was</p> <p>3 along on this venture?</p> <p>4 A. The visit to A-Tech and Elliott she was</p> <p>5 along, yes, sir.</p> <p>6 Q. Why was she there?</p> <p>7 A. Companionship and cover.</p> <p>8 Q. You are using criminal terms now when you say</p> <p>9 cover. What do you mean, it makes you look more what,</p> <p>10 honest?</p> <p>11 A. Well, we are honest, and it made it look more</p> <p>12 credible.</p> <p>13 Q. Was there some thought that either people at</p> <p>14 A-Tech or at Elliott might perceive that you are an</p> <p>15 investigator and you were out to find out information</p> <p>16 about this lawsuit?</p> <p>17 A. No, I don't think so.</p> <p>18 Q. Looking at Exhibit 2, that is a bill which</p> <p>19 looks to be for the month of December and first part of</p> <p>20 January concerning your work for Mr. Damgaard and</p> <p>21 Mr. Shattuck?</p> <p>22 A. Yes.</p> <p>23 Q. Let's go through that if we can. December</p> <p>24 24th, Christmas Eve day, I presume, you met with</p> <p>25 Attorneys Damgaard and Shattuck here in this office for</p>
<p>1 anyway?</p> <p>2 A. I didn't, I probably listened to them at the</p> <p>3 same time, or reviewed them a little bit to make sure</p> <p>4 there was something on the tape. If there wasn't, I</p> <p>5 would have to go back.</p> <p>6 Q. Then on November 15th according to this bill</p> <p>7 marked Exhibit 1 you met with Mr. Damgaard and</p> <p>8 Mr. Shattuck for an hour, where did that meeting take</p> <p>9 place?</p> <p>10 A. Either in Mr. Damgaard's office or</p> <p>11 Mr. Shattuck's. I think Mr. Damgaard's, because I</p> <p>12 brought in the tape and the brochures and things like</p> <p>13 that.</p> <p>14 Q. Did you listen to the tapes with those</p> <p>15 lawyers?</p> <p>16 A. No.</p> <p>17 Q. But you presented the tapes to them?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Did you make notes of that meeting?</p> <p>20 A. No.</p> <p>21 Q. Then looking at Exhibit 2 -- before I do</p> <p>22 that, I show you Exhibit 7, which is an audio tape</p> <p>23 marked Elliott 11-12-99. Would that be the recording of</p> <p>24 the salesman and yourself and others at Elliott Power</p> <p>25 Sports on November 12, 1999?</p>	Page 26	<p>1 an hour?</p> <p>2 A. Yes.</p> <p>3 Q. What was that meeting about?</p> <p>4 A. I was here on another matter with</p> <p>5 Mr. Damgaard, and we also discussed I was going to go</p> <p>6 back to Elliott Sports and see if they had got another</p> <p>7 shipment of snowmobiles in, or what the status was at</p> <p>8 that time.</p> <p>9 Q. Were you supposed to record anyone in</p> <p>10 particular at Elliott Power Sports?</p> <p>11 A. No. I did ask for Bill when I went back, and</p> <p>12 if he was there, fine, and he was, and if he wasn't, I</p> <p>13 was going to take another sales person.</p> <p>14 Q. Then December 27, 1999 it says attempt to</p> <p>15 conduct electronic monitoring, tell me about that?</p> <p>16 A. It is the holiday season, I prepared myself,</p> <p>17 and my daughter and I went out there. They were closed</p> <p>18 because of the holidays, giving their employees an extra</p> <p>19 day off.</p> <p>20 Q. Your daughter went with you as cover that</p> <p>21 time instead of your wife?</p> <p>22 A. Yes.</p> <p>23 Q. And on December 28, 1999 it says electronic</p> <p>24 monitoring at Elliott Sports. Would that be reflected</p> <p>25 in Exhibit 8, the audio tape I am showing you?</p>

<p>Page 29</p> <p>1 A. Yes.</p> <p>2 Q. Do you have any notes about what you were 3 supposed to attempt to elicit from Elliott Power Sport's 4 employees for that particular recording session?</p> <p>5 A. No.</p> <p>6 Q. Can you tell me what it is you were supposed 7 to find out?</p> <p>8 A. It was just more of the same information, 9 going out there, seeing what they had on the show room 10 floor in the way of Arctic Cat, Ski Doo and Yamaha, and 11 so we did that.</p> <p>12 Q. You could do that without recording your 13 conversation with employees of Elliott. Why were you 14 supposed to record your conversation with Elliott 15 employees on this second visit?</p> <p>16 A. Well, we were continuing to develop 17 information about their product, and how they have been 18 doing as far as the sales of the particular snowmobiles.</p> <p>19 Q. And you did so?</p> <p>20 A. Yes, sir.</p> <p>21 Q. How were you treated on that visit?</p> <p>22 A. Fine.</p> <p>23 Q. Appeared to be a well run dealership?</p> <p>24 A. Yes.</p> <p>25 Q. Then in Exhibit 2 on January 6, the year</p>	<p>Page 31</p> <p>1 quotes like I showed you in here, I had to have those on 2 another piece of paper, and I destroyed those after I 3 transcribed them on to this, on to these quotes that are 4 inside the brochures.</p> <p>5 Q. But other than that, have you removed 6 anything out of your file before your deposition here 7 today?</p> <p>8 A. No.</p> <p>9 Q. Are there any other tape recordings that you 10 made other than these?</p> <p>11 A. No, sir.</p> <p>12 Q. I am just going to show you Exhibits 4 and 5. 13 Are those the letters that Mr. Damgaard sent to Arctic 14 Cat to have them pay for your services?</p> <p>15 A. Yes.</p> <p>16 Q. You got copies of those when they were sent 17 out, correct?</p> <p>18 A. Yes, these are the copies that I received 19 from Mr. Damgaard.</p> <p>20 Q. You notice on those letters they are sent to 21 a Mr. Paul Ihle, an attorney in Thief River Falls, did 22 you ever have any discussions with Mr. Ihle?</p> <p>23 A. No.</p> <p>24 Q. Have you talked to anyone else about your 25 assignment as you have described it to us this morning</p>
<p>Page 30</p> <p>1 2000, it says you consulted with Attorney Damgaard and 2 provided him the tapes, is that correct?</p> <p>3 A. The tape, yes.</p> <p>4 Q. It says tapes, but it was really one tape?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Did you make any notes of that meeting with 7 Mr. Damgaard?</p> <p>8 A. No.</p> <p>9 Q. Was that the end of your involvement in this 10 particular case, or is there more?</p> <p>11 A. That was the end of it that particular time.</p> <p>12 Q. Have you done anything since January 6 of the 13 year 2000 in terms of your work for Attorneys Damgaard 14 and/or Shattuck with regard to Elliott Power Sports?</p> <p>15 A. Just the preparation for this deposition.</p> <p>16 Q. What did that consist of?</p> <p>17 A. Reviewing -- excuse me, the attorneys had 18 never seen my personal file at home, and I brought that 19 in and went through the personal notes with them.</p> <p>20 Q. Those are the things that you just shared 21 with me?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Is there anything that was in your file that 24 you removed before you gave it to me today?</p> <p>25 A. Today, no. Possibly some, when I re-did the</p>	<p>Page 32</p> <p>1 besides Mr. Damgaard, Mr. Shattuck, your wife and 2 daughter?</p> <p>3 A. No.</p> <p>4 Q. Did you consult with anyone about how you 5 should go about this engagement besides these attorneys?</p> <p>6 A. No.</p> <p>7</p> <p>8 (Mohr Deposition Exhibits 9-13 marked For 9 identification.)</p> <p>10</p> <p>11 Q. Mr. Mohr, we have marked Exhibits 9, 10, 11, 12 12 and 13. Would these be various promotional materials 13 you received on your visit to the dealerships you 14 described in your previous testimony?</p> <p>15 A. Yes.</p> <p>16 Q. In the brochures there is attached either 17 handwritten notes or typewritten price lists of various 18 snowmobiles that you procured at those respective 19 dealerships?</p> <p>20 A. Yes.</p> <p>21 Q. Was that something you were asked to do as 22 well, or did you do that on your own?</p> <p>22 A. I did that on my own.</p> <p>23 Q. Did you buy a snowmobile from any of these 24 dealerships?</p>

Page 33

1 A. No.
2 Q. Your intent was not to buy a snowmobile, was
3 it?
4 A. Potentially. Having retired and having
5 grandchildren, we thought it might be nice to have one
6 up at Lake Madison, but on these particular trips I was
7 not intending on buying a snowmobile.
8 Q. Obviously the purpose of these trips wasn't
9 to be a consumer shopping for a snowmobile, it was to
10 attempt to elicit evidence in a pending civil case on
11 behalf of the lawyers that hired you, correct?
12 A. Yes, sir.
13 Q. Did your wife and daughter ever meet with
14 Mr. Damgaard or Mr. Shattuck?
15 A. No.
16 Q. I notice in the visit to Elliott Sports when
17 your wife was there she asked some probing questions
18 that lawyers might want to ask at a deposition. Did you
19 sort of program her how to do that?
20 A. I briefed her a little bit in regards to when
21 we go in here, you know, we know nothing about
22 snowmobiles, we want to learn about the snowmobiles, and
23 have them tell us why we should buy a particular
24 product.
25 Q. Had she ever been involved with you before in

Page 35

1 A. That I could monitor it myself, any
2 conversation that I want to.
3 Q. When you throw in the ingredient of somebody
4 being represented by counsel that throws a curve ball at
5 you, doesn't it?
6 A. Yes.
7 Q. Did you have any discussions with
8 Mr. Damgaard or Mr. Shattuck on that subject?
9 A. I believe I asked them if what I am going to
10 be doing is legal.
11 Q. What did they tell you?
12 A. Yes.
13 Q. That was before you went out and did these
14 things?
15 A. Yes.
16 Q. Did Mr. Damgaard or Shattuck visit with you
17 about any rules of professional conduct with regard to
18 communications with a person represented by counsel?
19 A. No.
20 MR. JOHNSON: I have no other questions.
21 MR. DAMGAARD: We will read and sign.
22
23
24
25

Page 34

1 any under cover work like this?
2 A. I may have used her on a surveillance, we go
3 in a restaurant or something surveilling an individual,
4 maybe on one occasion in 29 plus years.
5 Q. Since you have your own consulting and
6 investigation service I was wondering whether you had
7 ever used her before?
8 A. No.
9 Q. In your years as an FBI agent, if someone was
10 represented by an attorney, would you continue to talk
11 to them and attempt to elicit evidence in a case?
12 A. Criminal case?
13 Q. Yes?
14 A. If I knew they were represented, no.
15 Q. In this particular case you knew there was a
16 pending civil case, and you knew the people you were
17 talking to were represented by counsel, did that concern
18 you at all that you were recording people that were
19 represented by counsel?
20 A. No.
21 Q. And why was that, sir?
22 A. That's a good question. I guess because I am
23 unfamiliar with civil procedures, that I assumed that it
24 was one party monitoring.
25 Q. What does one party monitoring mean?

Page 36

1 Pursuant to SDCL 15-6-30 (e), (Rule 30 of
2 the Federal Rules of Civil Procedure,) I have read the
3 forgoing pages 1-35 inclusive, and have noted any and
4 all corrections of error found in the transcript that I
5 believe the Court Reporter has made in the taking and
6 transcribing of my testimony, and have signed below.
7
8
9
10
11
12 _____ ADRIAN MOHR
13
14
15
16 Subscribed and sworn to before me this
17 _____ day of _____, 2000.
18
19
20
21
22 _____ NOTARY PUBLIC
23
24
25

RECAPITULATION OF EXPENSES

2/25/00
EXHIBIT
Mohr # 1
Jerry J. May

NOVEMBER 1999

Investigation/consultation/transcription	8 hrs.	@\$50	\$400.00
Travel status	2 hrs.	@\$25	\$ 50.00
Mileage	108	@.31/mi	\$ 33.48
SD Sales Tax			\$ 29.02
Total Due			\$512.50

Adrian Mohr
 Adrian Mohr Investigations and Consulting
 5112 South Pennbrook Avenue
 Sioux Falls, SD 57108
 Tax Identification #523546904
 SD Sales Tax #51-001-000119370T-ST-001

EXHIBIT

F

tabloid

STATEMENT OF EXPENSES

**Arctic Cat
Elliott Sports Center**

File # 99-011

Nov. 5, 1999

10:00 a.m.	Initial Consultation with Attorneys Roger W. Damgaard and Tim Shattuck/ Arctic Cat Law Suit	2 hours	\$100.00
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Nov. 8, 1999

Visit Dakota Plains (Polaris Dealership) Tea, SD	1 hour	\$ 50.00
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Nov. 9, 1999

Visit Interlakes Sports Madison, SD			
Mileage 108	\$.31/mile	\$ 33.48	
Travel @ \$25/hr.	2 hours	\$ 50.00	
Investigative time	1 hour	\$ 50.00	

Nov. 11, 1999

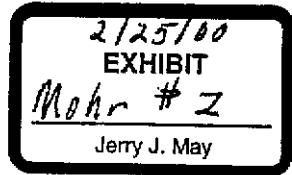
Investigation at A-Tech Cycle Service	1 hour	\$ 50.00
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Nov. 12, 1999

Investigation at Elliott Sports Center Technical Follow-up	2 hours	\$100.00
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Nov. 15, 1999

Met with Roger Damgaard and Tim Shattuck (RE: Investigation)	1 hour	\$ 50.00
---	--------	----------



January 18, 2000

Roger W. Damgaard
Tim R. Shattuck
Attorneys-at-Law
Woods, Fuller, Shultz & Smith P.C.
PO Box 5027
Sioux Falls, SD 57117-5027

**Re: Arctic Cat
Elliott's Sports Center
File #99-011**

Dear Roger and Tim:

Enclosed is my statement of expenses concerning the captioned investigation.

I look forward to our continued working relationship in 2000. Thank you.

Sincerely,

Adrian Mohr
Encl: Statement of Expenses
File #99-011

Paid in full
2/9/00
Sent 1/19/00

STATEMENT OF EXPENSES

↑
Arctic Cat
Elliott Sports Center

File # 99-011

Dec. 24, 1999

Consultation with Attys. Damgaard and Shattuck	1 hour	\$ 50.00
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Dec. 27, 1999

Attempt to conduct electronic monitoring	½ hour	\$ 25.00
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Dec. 28, 1999

Electric monitoring @ Elliott Sports	1 hour	\$ 50.00
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Jan. 6, 2000

Consult with Atty. Damgaard/ provide tapes	1 hour	\$ 50.00
--	--------	----------

RECAPITULATION OF EXPENSES
December 1999 – January 2000

Investigation/consultation/transcription	3 1/2 hrs.	@\$50	\$175.00
SD Sales Tax			\$ 10.50
Total Due			\$185.50

Adrian Mohr
Adrian Mohr Investigations and Consulting
5112 South Pennbrook Avenue
Sioux Falls, SD 57108
Tax Identification #523546904
SD Sales Tax #51-001-000119370T-ST-001

ARCTIC CAT INC.P.O. BOX 810
THIEF RIVER FALLS, MN 56701

DETACH AND RETAIN FOR YOUR RECORDS

		VENDOR NO.	VENDOR NAME		
04/03/99	6118144	1000317	ARCTIC CAT	WOLKE	
TRANSACTION DATE	REFERENCE	P.O. NUMBER	GROSS AMOUNT	DEDUCTION	NET AMOUNT
4/1/99/99	99-041	1000317-50	0.00	0.00	0.00
4/2/99/99	99-042	1000317-50	0.00	0.00	0.00

CHECK DATE	CHECK NO.	TOTAL GROSS	TOTAL DEDUCTION	CHECK AMOUNT
4/2/99/99	99-042	0.00	0.00	0.00

ARCTIC CAT INC.

P.O. BOX 810
THIEF RIVER FALLS, MN 56701

VENDOR NO.

CHECK DATE

VENDOR NAME

DETACH AND RETAIN FOR YOUR RECORDS

TRANSACTION DATE	REFERENCE	P.O. NUMBER	GROSS AMOUNT	DEDUCTION	NET AMOUNT
CHECK DATE	CHECK NO.	TOTAL GROSS	TOTAL DEDUCTION	CHECK AMOUNT	

WOODS, FULLER, SHULTZ & SMITH P.C.

LAWYERS

MERLE A. JOHNSON
RICHARD O. GREGERSON
JOHN E. SIMKO
WILLIAM G. TAYLOR
WILLIAM P. FULLER
STUART L. TIEDE
GARY P. THIMSEN
BRADLEY C. GROSSENBURG
JAMES M. WIEDERRICH
COMET H. HARALDSON
J. G. SHULTZ
ROGER W. DAMGAARD
FREDERICK M. ENTWISTLE
DAVID C. KROON
MARK J. WELTER

300 SOUTH PHILLIPS AVENUE, SUITE 300

POST OFFICE BOX 5027

SIOUX FALLS, SOUTH DAKOTA 57117-5027

TELEPHONE (605) 336-3890

TELECOPIER (605) 339-3357

E-MAIL: rdamgaard@wfss.com

JAMES E. MOORE
KRISTINE L. KREITER
ELIZABETH A. LEWIS
TIMOTHY R. SHATTUCK
JAYNA M. VOSS
MELANIE L. CARPENTER
SUSAN M. SABERS
WILLIAM G. BECK
MARLON M. LOFGREN

FRANCIS M. SMITH - OF COUNSEL

MELVIN T. WOODS (1899-1983)
HOWELL L. FULLER (1909-1981)
JOHN B. SHULTZ (1912-1975)

January 25, 2000

2/25/00
EXHIBIT
Mohr #4
Jerry J. May

Mr. Paul Ihle
Ihle & Sparby, P.A.
312 North Main Avenue
P.O. Box 574
Thief River Falls, MN 56701

C

Re: Midwest Motor Sports, Inc. vs. Arctic Cat Sales, Inc.
CIV. 99-4117

O

Dear Paul:

Please find enclosed Adrian Mohr's statement for services in the amount of \$185.50 for the above matter. I would appreciate it if you have this statement paid directly to Mr. Mohr.

P

Sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.

Y

Roger W. Damgaard

Enclosure

cc: Mr. Mark Simunds
bcc: Mr. Adrian Mohr

WOODS, FULLER, SHULTZ & SMITH P.C.

MERLE A. JOHNSON
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ROGER W. DAMGAARD
FREDERICK M. ENTWISTLE
DAVID C. KROON
MARK J. WELTER

LAWYERS
300 SOUTH PHILLIPS AVENUE, SUITE 300
POST OFFICE BOX 5027
SIOUX FALLS, SOUTH DAKOTA 57117-5027
TELEPHONE (605) 336-3890
TELECOPIER (605) 339-3357
E-MAIL: rdamgaard@wfss.com

JAMES E. MOORE
KRISTINE L. KREITER
ELIZABETH A. LEWIS
TIMOTHY R. SHATTUCK
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WILLIAM G. BECK
MARLON M. LOFGREN
FRANCIS M. SMITH - OF COUNSEL
MELVIN T. WOODS (1899-1983)
HOWELL L. FULLER (1909-1981)
JOHN B. SHULTZ (1912-1975)

December 1, 1999

Mr. Paul Ihle
Ihle & Sparby, P.A.
312 North Main Avenue
P.O. Box 574
Thief River Falls, MN 56701

2125100
EXHIBIT
Mohr # 5
Jerry J. May

Re: Midwest Motor Sports, Inc. vs. Arctic Cat Sales, Inc.
CIV. 99-4117

C

Dear Paul:

O

Please find enclosed a copy of our investigator, Adrian Mohr's statement of expenses indicating a total due of \$512.50 in the above matter. I would appreciate it if Arctic Cat would pay the statement directly to Mr. Mohr at the address indicated.

Thank you for your cooperation. Do not hesitate to contact me if you have any questions or concerns.

P

Sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.

Y
Roger W. Damgaard

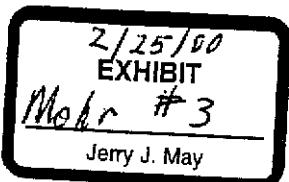
Enclosure
bcc: Mr. Adrian Mohr

11/5 DON ELLIOT SUPER STORE
SPORTS FORMER POLICE

(Tim Shattuck)

* Arctic Cat / THIEF RIVER FALLS

STEVE JOHNSON VS. BREAKING RULES



SHOWROOM / SERVICE / LEAVING / PARTS

* PACKED FULL OF STUFF / MARKET

— ALLEGING 3/31/99 — "DROPPIN" / SEPARATE
CUSTOMERS FULL LINE

— DROPPING BEST PRODUCTS AND CONTINUING TO
SELL

3/31/1998 — NO MORE WATERCRAFT & ATVs

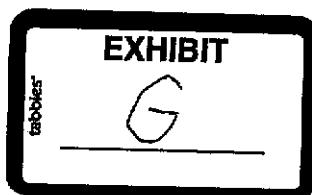
VOLUNTARY DROP —

— LINE SNOWMOBILE — (REPLACE W/ SKIDOO)

"AFTER" - 12" > NEGOTIATING /
12/98 LAW SUIT

ELLIE / RECORDING TAPES W/ ARCTIC
NO

2000 MODEL YEAR CONTRACT 3/99 FILES A
LAW SUIT



A/TECH (SNOWMOBILE FRANCHISE) CITROS SUBMISSION
PENNINGTON / JUSTINSON

DEPT OF REV. - HEARING

(2)

ONLY A WITNESS / W.W - W.W

"JON BECKER" — AT-TECH (AGE 40)

Conductor (DAN Lutz) signature MIG (Conductor)

→ UNDER OATH w/ STEVE JOHNSON

SUBPOENA DOCUMENTS — STEVE JOHNSON SIGNED UP

Deposition confirmed / 44" TV QUASH (Pensacola)
Document

Deposition —

3/31/99 TERMINATED

— OWNER IN PLANTS & SOLD UNIT —

Show: Showroom line of Arctic Cat (82%)

producer and others

* Selling more or less / Yamaha / Polaris / NO GATP

2 snowmobiles

SUITS

Don't know what

SALES MAN

HELMET

BEST kind of

TRAILER

RECOMMEND

WHY

* SPARES / REPAIRING *

SLED

CLOTHES

"ADMIR" \$10,000 & on Yamaha BEST

But won't buy an Arctic Cat

"THOUGHT DID" SELL

* COMPETITOR

* BERMUDA AT-TECH *

How long — Polaris

3

Financing: (Get into it)

CLOSE-OUTS

\$26,000 profit
 $(0 - 4\%)$ * 7000
(marg 350)

* Match up on accessories

Polaris 4020

Skidoo / Arctic Cat

Yamaha

SALES MGR / Jim LETENDRE
(LEON)

WHAT ELLIOTT SWENSON Tonite customer

WANTS

NEEDS

INVENTORY

Skidoo

Yamaha

"THEY ARE BETTER"

* IF I Buy Arctic Cat can I service it

HERE - "INTERLAKES"

WHAT ABOUT Parts & Accessories

* COMBINATION PACKAGE *

INTERLAKES

STEVE B. CRAVE

Ph. 613-241-1000

250 1st Ave

ELLIOTT

BILL

VAMATA

VENTURE - 3 yr

VALVE 1/2" / metal w/ plastic seal

Promo no m/ no pmi
w/m

SKI DOO (By ^{BSG} ~~sm~~) RUTAX / ^{pm}
CARTON - 1 yr

DPM - High Antifreeze / Deteriorated
Bulky / Pw / mbr. "RENT"

DESS) scaling

5 service visits

GABE / DEXATE

liquid carbon

11/15 \$400 Pm / com 10ccs
+ 200 Pm carbon

no pmi 0
sm 0

4.4%

60 days
no pmi

VAMATA -

complaint

WOODS, FULLER, SHULTZ & SMITH P.C.

MERLE A. JOHNSON
RICHARD O. GREGERSON
JOHN E. SIMKO
WILLIAM G. TAYLOR
WILLIAM P. FULLER
STUART L. TIEDE
GARY P. THIMSEN
BRADLEY C. GROSSENBURG
JAMES M. WIEDERRICH
COMET H. HARALDSON
J. G. SHULTZ
ROGER W. DAMGAARD
FREDERICK M. ENTWISTLE
DAVID C. KROON
MARK J. WELTER

LAWYERS
300 SOUTH PHILLIPS AVENUE, SUITE 300
POST OFFICE BOX 5027
SIOUX FALLS, SOUTH DAKOTA 57117-5027
TELEPHONE (605) 336-3890
TELECOPIER (605) 339-3357
E-MAIL: tshattuc@wfss.com

JAMES E. MOORE
KRISTINE L. KREITER
ELIZABETH A. LEWIS
TIMOTHY R. SHATTUCK
JAYNA M. VOSS
MELANIE L. CARPENTER
SUSAN M. SABERS
WILLIAM G. BECK
MARLON M. LOFGREN

FRANCIS M. SMITH - OF COUNSEL
MELVIN T. WOODS (1899-1983)
HOWELL L. FULLER (1909-1981)
JOHN B. SHULTZ (1912-1975)

November 24, 1999

Mr. Steve Johnson
Johnson, Heidepriem, Miner,
Marlow & Janklow, L.L.P.
431 North Phillips Avenue, Suite 400
Sioux Falls, SD 57104-5933

Re: Midwest Motor Sports, Inc. v. Arctic Cat Sales, Inc.

Dear Steve:

Enclosed please find a Rule 34 Request for Inspection. As you will note from the Request, Arctic Cat wishes to inspect, photograph, and videotape plaintiff's store. As also indicated in the Request, Arctic Cat is willing to work with the plaintiff in scheduling the inspection. At your earliest convenience, please contact me so that we can discuss scheduling the inspection.

Very truly yours,

WOODS, FULLER, SHULTZ & SMITH P.C.


Tim R. Shattuck
Tim R. Shattuck

Enclosure



WOODS, FULLER, SHULTZ & SMITH P.C.

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LAWYERS

300 SOUTH PHILLIPS AVENUE, SUITE 300

POST OFFICE BOX 5027

SIOUX FALLS, SOUTH DAKOTA 57117-5027

TELEPHONE (605) 336-3890

TELECOPIER (605) 339-3357

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FRANCIS M. SMITH - OF COUNSEL

MELVIN T. WOODS (1899-1983)
HOWELL L. FULLER (1909-1981)
JOHN B. SHULTZ (1912-1975)

February 21, 2000

Mr. Steven M. Johnson
Mr. Ronald A. Parsons, Jr.
Johnson, Heidepriem, Miner,
Marlow & Janklow, L.L.P.
431 North Phillips Avenue, Suite 400
Sioux Falls, SD 57104-5933

Re: Midwest Motor Sports v. Arctic Cat

Gentlemen:

Enclosed is an audio tape of Adrian Mohr's visit to A-Tech Cycle Service on November 11, 1999. This is in partial compliance with the Subpoena served on him. The other documents will be produced at the time of his deposition.

Very truly yours,

WOODS, FULLER, SHULTZ & SMITH P.C.



Tim R. Shattuck

Enclosure

ATTORNEYS AT LAW

Johnson, Heidepriem, Miner,
Marlow & Janklow, L.L.P.

Steven M. Johnson
Scott N. Heidepriem*
Celia Miner
Michael F. Marlow
A. Russell Janklow
Chad W. Swenson
Sheila S. Woodward
Ronald A. Parsons, Jr.
Matthew T. Tobin
Steven K. Huff**

Falls Center
431 North Phillips Avenue, Suite 400
Sioux Falls, South Dakota 57104-5933
Telephone (605)338-4304 • FAX (605)338-4162

Reply To: Sioux Falls

December 20, 1999

Mark F. Marshall, P.C.
Of Counsel

P.O. Box 667
200 West Third Street
Yankton, SD 57078-0667
Telephone (605)665-5009
FAX (605)665-4788

*Also Admitted in Minnesota
**Admitted Only in Iowa

Timothy R. Shattuck
Woods, Fuller, Shultz & Smith, P.C.
PO Box 5027
Sioux Falls, SD 57117-5027

Faxed 12/20/99

Re: Midwest Motor Sports, Inc. v. Arctic Cat Sales, Inc.

Dear Tim:

It has come to our attention that you may have served an additional subpoena or other request to A-Tech Cycle to videotape its premises. If that is so, please provide us with a copy of the subpoena or request and inform us of the time and date. We would like to be present for any such visit. I imagine that A-Tech's attorney, Mr. Lias, would also like to be present.

Very truly yours,


STEVEN M. JOHNSON
For the firm

SMJ:dkm
cc: Mr. and Mrs. Elliott
Mr. Dan Lias

EXHIBIT

K

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

CENTRAL DIVISION

MIDWEST MOTOR SPORTS, INC.,
a South Dakota Corporation,
D/b/a Elliott Power Sports,

Plaintiff,

-vs-

CIV. NO. 99-4117

ARCTIC CAT SALES, INC.,
a Minnesota Corporation,

Defendant.

DEPOSITION OF

JANINE MOHR

APPEARANCES:

Johnson, Heidepriem, Miner, Marlow & Janklow
Attorneys at Law
431 North Phillips Avenue
Sioux Falls, South Dakota 57104
By Mr. Steven Johnson
for the Plaintiff;

Woods, Fuller, Shultz & Smith
Attorneys at Law
300 South Phillips Avenue
Sioux Falls, South Dakota 57104
By Mr. Roger Damgaard and Mr. Timothy Shattuck
for the Defendant;

1 INDEX TO EXAMINATIONS
2 EXAMINATION BY MR. JOHNSON
3
4
5
6
7
8 INDEX TO EXHIBITS
9 (Disposition of Exhibits Discussion)

Page 2

1 A. Yes.

2 Q. Your husband's deposition was just taken, you
3 were not in the room with us, is that correct?

4 A. That's correct.

5 Q. Have you ever had your deposition taken
6 before?

7 A. No, I have not.

8 Q. You probably wonder when lawyers talk about
9 depositions what that all means, we will at least give
10 you a little preview of what that is about. Did you do
11 anything to prepare for your deposition this morning?

12 A. No, other than just visited this morning with
13 Roger to find out what it was.

14 Q. And had you known Roger for some time?

15 A. I met him for the first time this morning.

16 Q. Tell me, Ma'am, were you involved at all in
17 any meetings with anyone prior to you and your husband
18 going out to Elliott Power Sports or A-Tech?

19 A. No, I was not.

20 Q. Had you ever been involved in any other sort
21 of under cover activities of Adrian Mohr Investigations
22 prior to that time?

23 A. No, I had not.

24 Q. What was your understand
25 and your husband were supposed



Page 5	Page 7
1 Elliott Power Sports?	1 Exhibits over to Jerry, and he can attach the ones you
2 A. To find out about snowmobiles.	2 mentioned you wanted attach, and then attach the
3 Q. I noticed you asked some questions of some of	3 brochures to the original transcript.
4 the sales people that were talking to you at Elliott	4 MR. DAMGAARD: Janine, you can read and
5 Power Sports in particular, do you recall those	5 sign the deposition today or you can waive the reading
6 conversations?	6 and signing of the deposition today. I would advise you
7 A. Very little.	7 to say you waive that.
8 Q. But you did ask questions of some of the	8 THE WITNESS: I waive that.
9 sales people, did you not?	9
10 A. Yes, I did.	10
11 Q. How did you come up with the nature of those	11
12 questions, did they seemed to be good, probing questions	12
13 to me when I listened to them?	13
14 A. I think I have a natural curiosity.	14
15 Q. Did you know what you and your husband were	15
16 supposed to ferret out from anyone at Elliott when you	16
17 went there?	17
18 A. It was mostly my understanding that we were	18
19 to find out about snowmobiles, and if they were	19
20 available, and what types were good snowmobiles, if we	20
21 were looking, what we would want to purchase.	21
22 Q. I noticed you and/or your husband asked	22
23 questions about Arctic Cat, and why Arctic Cat wasn't	23
24 there any longer. How did you come up with those	24
25 questions?	25
Page 6	Page 8
1 A. I was aware that they were probably not	1 STATE OF SOUTH DAKOTA)
2 selling them any more.	2 :ss CERTIFICATE
3 Q. You knew there was a pending lawsuit, and you	3 COUNTY OF MINNEHAHA)
4 knew that your husband was hired by lawyers for Arctic	4
5 Cat, and that your mission was to go out there and	5
6 record conversations with those employees, did you not,	6 I, JERRY MAY, Court Reporter and Notary
7 Ma'am?	7 Public within and for the State of South Dakota:
8 A. Yes, I did.	8 DO HEREBY CERTIFY that the witness was
9 MR. JOHNSON: I have no other questions,	9 first duly sworn by me to testify to the truth, the
10 thank you very much.	10 whole truth, and nothing but the truth relative to the
11 MR. JOHNSON: We have marked Exhibits 1	11 matter under consideration and that the forgoing pages
12 through 13, I don't know what you want to do with these	12 1-7, inclusive are a true and correct transcript of my
13 brochures, Roger. As far as I am concerned, if you want	13 stenotype notes made during the time of the taking of
14 to take custody of them, that is fine, or we can put	14 the deposition of this witness.
15 them with the original deposition, whatever you want.	15 I FURTHER CERTIFY that I am not an
16 Exhibits 1 through 5 are written materials which I would	16 attorney for, nor related to the parties to this action,
17 like to have copies of, and you can either have your	17 and that I am in no way interested in the outcome of
18 office do it or Mr. May can do it, but I want copies	18 this action.
19 attached to the deposition. Exhibits 6, 7 and 8 are the	19 In testimony whereof, I have hereto set
20 audio tapes which you already provided me and I am going	20 my hand and official seal this 25th day of February,
21 to take those with me.	21 2000.
22 MR. DAMGAARD: That's not a problem.	22
23 MR. JOHNSON: What do you want to do with	23
24 Exhibits 9 through 13.	24
25 MR. DAMGAARD: Turn all the rest of the	25 _____ NOTARY PUBLIC